IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.16975 of 2005
Date of Decision: 23.10.2006

Inderjit Kaur Gill

Petitioner

versus

State of Punjab and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri Kanwaljit Singh, Advocate for the petitioners
Shri P.S.Chhina, Additional Advocate General, Punjab
Shri Kuldip Sanwal, Advocate for respondent No.2

Jasbir Singh, J. (Oral)

Vide order dated 19.3.2004, house tax was assessed regarding property of the petitioner. She went in appeal, which was dismissed vide order dated 28.7.2005 (Annexure P/7). Relevant portion of the order reads thus:-

> "2. *The arguments in this case were heard. The appellant had not deposited the amount in dispute under Section 147(b) of the Punjab Municipal Corporation, Act, 1876, before coming in appeal in the present case. The property in dispute is used as commercial property. The House Tax Assessment Committee had afforded sufficient opportunity to the present appellant to represent her case and after hearing the appellant they had given her concession also i.e. by Rs.36,972/-. She had already been heard and have been given concession by the House Tax Assessment Committee. The the assessment made can be called as consented assessment. In addition to this, the appeal filed in this court under section 146 of the Punjab Municipal Corporation Act, 1976 was not accompanied by depositing the amount in dispute as required under section 147 (b) of the same Act.*

3. After hearing both the parties and going through the file, I hereby reject the appeal filed by the appellant being without any merit."

It is apparent from the records that the appeal was dismissed primarily on the ground that the petitioner had failed to deposit the amount of tax assessed, which is mandatory under the provisions of Section 147 of the Punjab Municipal Corporation Act, 1976. When this matter came up before this Court on 25.10.2005, following order was passed:-

> *"Counsel for the petitioners places reliance on the judgment of this Court in* ***ANZ Grindlays Bank Limited, Amritsar v. Municipal Corporation, Amritsar, 1999(2) RCR (Civil) 430****, to, inter alia, contend that before rejecting the appeal of the petitioners on the ground that the same was not maintainable as the petitioners had failed to deposit the disputed amount, they ought to have been granted a liberty to deposit the same. A perusal of the said judgment shows that this Court had accepted the prayer of the petitioner therein in view of the fact that the entire amount had been deposited before approaching this Court. In the present case, the disputed amount has not been deposited up to this date."*

Counsel for the petitioner states that in consequent to the order passed by this Court, the petitioners had deposited the amount of house tax till the filing of the appeal. In view of this, the writ petition is allowed, the order passed by the appellate authority is set aside and the matter is remitted to the appellate authority to pass a fresh order on merits.

Parties are directed to appear before the appellate authority on 27.11.2006.

(Jasbir Singh)
Judge

October 23, 2006 **(Pritam Pal)**
gk **Judge**